IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

FRIDAY, THE 29TH JUNE 2007 / 8TH ASHADHA 1929

MFA.No. 1086 of 2000(B)

OPMV.387/1994 of MOTOR ACCIDENT CLAIMS TRIBUNAL, PARAVUR DT..25.3.2000.

.....

APPELLANT: 2ND RESPONDENT

THE ORIENTAL INSURANCE CO.LTD.,
NOW REPRESENTED BY ITS
DEPUTY MANAGER, MOTOR THIRD PARTY
CLAIMS CELL, METRO PALACE, KOCHI 18.

BY ADV. SRI.MATHEWS JACOB (SR.)

RESPONDENTS:
----

1. **C.N.DEEPA, D/O.C.R.NARAYANAN, CHIRAMATTUPURAYIDAM HOUSE, THEVARKADU, VARAPUZHA P.O., PARAVUR TALUK.**

2. **JOSE K.GEORGE, S/O. GEORGE, KUNJELIPARAMBIL, CHALIPALAM KOOTTUKADU, VADAKKUMPURAMP.O., N.PARAVUR.**

BY ADV. SRI.G.BALAMURALEEDHARAN (PARAVUR)
SRI.MATHEWS V.JACOB (PARAVUR)
SRI.N.T.NANDAKUMAR (PARAVUR)

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 29/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.F.A.No.1086 OF 2000

Dated 29th June, 2007

JUDGMENT

Koshy,J.

First respondent met with an accident due to the negligence of the driver of the vehicle insured by the appellant insurance company. Tribunal awarded a compensation of Rs.43,200/= with interest. The only contention raised by the appellant is that State Insurance Department also insured the offending vehicle and, therefore, the liability should have been shared by the appellant insurance company as well as State Insurance Department. Even though this was pleaded before the court below, the appellant insurance company did not make the State Insurance Department a party. The fact that offending vehicle was insured by the appellant is admitted. Third party liability was unlimited at that time. There is no reason for the appellant insurance company for not depositing the entire amount awarded. State Insurance Department was not made a party and the appeal itself was filed in 2000. We are unable to pass any award against the State Insurance Department in this appeal. After depositing the entire award amount, if appellant has got any claim against the State Insurance Department, it can proceed against them, if they are advised so. We are not considering the maintainability of such claims in this appeal.

The appeal is dismissed.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

tks